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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,320	12/29/2000	Andrew Rouse	042846-0313440	6988
53796 7590 08/12/2009 PILLSBURY WINTHROP SHAW PITTMAN, LLP c/o SUSAN TRADER 1650 TYSONS BOULEVARD P.O. BOX 10500 MCLEAN, VA 22102				
EXAMINER				
PAN, YUWEN				
ART UNIT		PAPER NUMBER		
2618				
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08/12/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte*: ANDREW ROUSE, QUINTON ZONDERVAN, THOMAS  
BENTLEY, TIMOTHY LAWSON, and CHRISTOPHER HEROT

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Application No. 09/750,320  
Technology Center 2600

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Mailed: August 12, 2009

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Before GLORIA HENDERSON, *Review Team Paralegal*  
HENDERSON, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on April 13, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

PRIOR ORDER TO EXAMINER

A prior "Order Returning Undocketed Appeal to Examiner" was mailed on May 22, 2009 wherein the Examiner was instructed that corrections to the appeal were required. A review of the file finds that the required corrections have not been made or have not been made in entirety. The matters still requiring attention are identified below

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed October 16, 2008, reveals that claim(s) in the Claims appendix of the Appeal Brief are not consistent with the last Office Action. The Applicant filed an Amendment After Final on August 3, 2004, cancelling claims. An Advisory was not entered regarding this amendment. The Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

Specifically, claim 36 in the Claims appendix of the Appeal Brief is listed as (Cancelled). However, in the last Office Action, filed September 8, 2008, Claim 36 is listed as being rejected under 35 U.S.C. 103(a).

Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) to hold the Appeal Brief filed October 16, 2008, defective;

2) notify appellants to file a Supplemental Appeal Brief providing correction of the Claims Appendix;

3) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplement Brief; and

4) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/gjh/

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